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SUBJECT: Brother of Murdered Nun Pushes for
Federalization of Case; U.S. Indictment Likely

Ref: A) Brasilia 532; B) Brasilia 437; C) Brasilia 369

11. (SBU) Summary. David Stang, brother of murdered US citizen nun Dorothy Stang, visiting Brazil this week, told Ambassador Danilovich that while pleased with GoB reaction to his sister's death he believed it important that the Brazilian federal government take over from the state authorities the investigation and prosecution of the case. He planned to meet with the Brazilian Minister of Justice to push the issue. Three FBI investigators traveled to the crime scene in recent days; the Washington DC U.S. Attorney's Office will present the evidence collected to a U.S. Grand Jury, seeking indictments of all four suspects. End Summary.

12. (U) Ambassador Danilovich met with David Stang, brother of murdered nun Dorothy Stang; Daniel Junge, traveling with Stang to film a documentary; and Sister Mary Ellis McCabe, a member of Sister Dorothy's order, stationed in Ceara, Brazil, at dinner at the Ambassador's residence March 2. (PolCouns, CG, and Special Ass't also attended the dinner.) Stang and Junge were in Brasilia to meet with Minister of Justice Marcio Thomaz Bastos after visiting the site of Stang's sister's murder in Para state. Stang thanked the Ambassador for the Embassy's support and said that he was pleased with the Brazilian federal government's reaction. He was very critical, however, of Para state authorities for failing to protect his sister and for failing to offer their condolences during his visit.

13. (U) Stang believes that much of the progress made so far in the case is due to federal involvement and was disappointed at a recent statement from federal Justice Minister Bastos saying that it was best to allow state authorities prosecute the case. Stang believes that state officials are too closely tied to the landed interests responsible for his sister's death to pursue the case vigorously. We encouraged him to raise these concerns with the minister.

14. (U) Stang was scheduled to meet with Minister Bastos March 3. Embassy confirmed the appointment, but was not asked to attend. Stang and Junge depart on the evening of March 3 for the U.S.

15. (SBU) Federal Police contacts working the case told Legatt they believed the international spotlight was strong enough to ensure that state officials would successfully prosecute the four suspects (reftel B), but that federal involvement would be necessary to carry the investigation further (i.e., to powerful landowners who may have ordered the murder, or tacitly agreed to it).. Legislation passed in December 2004 as part of Brazil's ongoing judicial reform gives the federal government the right to federalize human rights cases that would otherwise be left to the states. In addition, the federal government probably has jurisdiction over the case simply because the murder apparently took place on federal land. Homicide in Brazil carries a sentence of 12 to 30 years. (Comment: We are somewhat mystified by Bastos' reluctance to take over the case given the high-level federal involvement so far and the opportunity to use the murder as a test case for the new "federalization" law. End comment).

16. (SBU) The Washington DC U.S. Attorney's Office, Transnational Crime Unit, is pursuing an indictment of the four individuals (three in custody, one at large) by using Title 18, USC 2332, a statute on International Homicide. The key elements of this statute require 1) the victim be a U.S. citizen, 2) that the murder take place outside the US, and 3) that the murder was carried out to influence, pressure, or coerce a government or civilian group. Stang's murder meets all the key elements.

17. (SBU) In recent days, three FBI investigators (one Brazil- and two U.S.-based agents) traveled to the scene of the crime in the state of Para and collected reports, photographs, and video from the Brazilian investigating

authorities. The FBI investigators also interviewed the three subjects currently in Brazilian custody. A fourth subject remains at large. One refused to talk and two restated their involvement in the murder. Based on the FBI interviews, coupled with the evidence collected by the Brazilian authorities, the U.S. Attorney's Office will present its case before a U.S. Grand Jury for indictment - probably during March.

18. (SBU) Although an extradition treaty is in place, Brazil's constitution prohibits the extradition of Brazilian citizens. If a U.S. grand jury returns an indictment against the four suspects, they can only be extradited if they depart Brazil for a country that has a bilateral extradition treaty with the US. If the individuals accused of this crime remain in Brazil there is no expectation that they will be prosecuted in the U.S.

19. (SBU) Comment: Para state authorities have made progress by capturing three of four suspects in the Stang murder. Nevertheless, post shares the belief expressed by a wide variety of observers that successful investigation and prosecution will be much more likely if the Brazilian federal government takes over the case.

Danilovich